



CREDIT UNION LEGAL UPDATE

winter 2017



CREDIT UNION BOARD COMPENSATION & IN-KIND GIFTS

It is a well-known fact that federal credit unions are not permitted to directly compensate members of their boards of directors. As a result, a number of FCUs are converting to state charters primarily so they can pay their directors. An estimated 18 states allow directors of state-chartered credit unions to be compensated. Some of these state laws are very specific. For example, the Arizona statute provides, “A credit union may compensate an officer, director or committee member for the officer’s, director’s, committee member’s services to the credit union. Providing reasonable life, health, accident, and similar protection is not considered compensation.” Colorado has a similar law. Four states—Georgia, Kentucky, South Dakota and Wyoming—are silent on the degree or type of board compensation that may be paid. Details by state are included in the charts that follow.

The National Credit Union Administration has approved a number of permissible types of “in-kind” compensation such as reimbursement of reasonable travel expenses, but others are much less publicized. Over the years, the NCUA has broadened its views of director compensation for FCUs to include such items as a \$250 gift card to recognize five years of service; “small” gifts to an official’s share account; long-term care insurance; training costs and expense reimbursement for nonvoting members; reimbursement for electronic equipment and internet access; direct purchase of health insurance; reimbursement of meals; travel expenses; educational programs and conferences; insurance relating to disease-specific health insurance; and extension of health benefits to immediate family members. These determinations are often accompanied by an NCUA letter to credit unions or a letter from the Office of General Counsel. Over the years such pronouncements have received broad coverage. Credit unions are directed to carefully review the special NCUA letters rather than relying on a general list (click here <https://www.ncua.gov/regulation-supervision/Pages/policy-compliance/communications/letters-to-credit-unions.aspx> for NCUA’s Letters to Credit Unions).

As noted above, a preliminary review of state law indicates that, to one extent or another, the following states seem to allow direct cash compensation for those who serve on the board of a state-chartered credit union: Arizona, Colorado, Georgia, Indiana, Kentucky, Maryland, Minnesota, Nevada, New Jersey, North Dakota, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Washington, Wisconsin and Wyoming. Georgia permits all credit unions to compensate the members of their boards. As always, we encourage you to consult your local legal counsel to confirm laws specific to your state.

State	Permits	Not Permitted	Statute	Comments	SKR Comments	Code/Statute Section
AL		X	5-17-11	reimbursement of necessary expenses;		5-7-11(c): No member of the board or any committee shall, as such, be compensated. Notwithstanding the foregoing, for their services to the credit union, providing reasonable life, accident, and similar insurance protection shall not be

				insurance allowed		considered compensation. Directors, officers, and committee members may be reimbursed for necessary expenses incidental to the performance of the official business of the credit union.
AK		X	06.45.110		Allows insurance	Alaska Stat. 06.45.100: A member of the board of directors or of the credit or supervisory committees may not be compensated for service on the board of directors or credit or supervisory committees. Reasonable health, accident, and similar insurance protection is not compensation under this section and may be provided under regulations adopted by the commissioner.
AZ	1		6-533	compensation; reasonable expenses		A.R.S. 6-533: A credit union may compensate an officer, director or committee member for the officer's, director's or committee member's services to the credit union. Providing reasonable life, health, accident and similar insurance protection is not considered compensation. Directors, officers and committee members may be reimbursed for necessary expenses incidental to the performance of official business of the credit union.
AR		X	23-35-804	allows reasonable expenses	Treasurer may be compensated	A.C.C. 23-35-308: (a) No officer, director, or committee member of the credit union, other than the treasurer whom the board of directors of the credit union has specifically appointed or contracted to actively work in the credit union, may be compensated, directly or indirectly, for his or her services as such. This shall not be construed to prevent reimbursement of directors and committee members for actual expenses they may incur in carrying out the duties of their office. (b) The compensation to be paid to the treasurer and to the employees who are authorized by the board shall be established by the board at its monthly meetings or in the annual budget allocations.
						Cal. Fin. 14410: (a) No member of the board of directors, supervisory committee, or credit committee shall receive any compensation for his or her services as a member of the board of directors, supervisory committee, or credit committee, but he or she may be provided with reasonable health, accident, and similar insurance. Nothing in this subdivision shall prohibit a member of the board of directors, supervisory committee,

CA		X	Fin. Code 14410	allows insurance, incidental nonmonetary and expenses		or credit committee from receiving nonmonetary compensation that is incidental to the person's service as a member of the board of directors, supervisory committee, or credit committee, if and as approved by regulation or order of the commissioner. (b) Notwithstanding subdivision (a), a director or committee member may be reimbursed for actual expenses incurred in the performance of his or her duties if reimbursement is made pursuant to the requirements of the commissioner's regulations controlling expense reimbursement by the credit union. Reimbursement for actual expenses may include, among other things, travel expenses incurred on or relating to credit union business, and any other matters, categories, or items of expense that the commissioner may establish by regulation. (c) Nothing in this section shall prevent any person from receiving compensation for actual services as a general manager, credit manager, loan officer, or other position as an employee of the credit union.
CO	1		11-30-109	allows expenses; insurance not compensation		C.R.S. 11-30-109(3): A credit union may reasonably compensate a director for his or her services to the credit union. Providing reasonable life, health, accident, and similar insurance protection is not considered compensation. Directors, officers, and committee members may be reimbursed for necessary expenses incidental to the performance of the official business of the credit union.
CT		X	36a-448a			Conn. Gen. Stat 36a-448a(f): No director of a Connecticut credit union may receive compensation for services as a member of the governing board and no member of a board-appointed committee of such Connecticut credit union shall receive compensation for services as a member of such committee, except a member of the supervisory committee may be compensated for the time actually spent performing audits and verifications.
DE				n/a		
FL		X	657.028			Fla. Sta. 657.028(2): An elected officer, director, or committee member, other than the chief executive officer, may not be compensated for her or his service as such.
GA					Law appears silent	

HI		X	412:10-113	allows insurance and reasonable expenses	Treasurer may be compensated	HRS 142:10-113: No member of the board, no officer of the board other than the treasurer, and no member of any committee, other than an employee, shall be compensated for services; provided that reasonable life, health, accident, similar insurance protection, and the reimbursement of reasonable expenses incurred in the execution of the duties of the position shall not be considered compensation.
ID		X	26-2122	allows expense reimbursement	Part-time treasurer may be paid salary	Idaho Code 26-2112: No officer, director, or committee member may be compensated, directly or indirectly, for his services as such; provided, however, an elected member of the board of directors may serve as a part-time treasurer and receive a salary for his services. This shall not be construed to prevent reimbursement of directors and committee members for actual expenses they may incur in carrying out the duties of their office.
IL		X	205 ILCS 305/23	allows insurance and reasonable expenses		205 ILCS 305/23: (1) No director or committee member may receive compensation for his service as such. "Compensation" as used in this subsection (1) refers to remuneration expense to the credit union for services provided by a director or committee member in his or her capacity as director or committee member. "Compensation" as used in this subsection (1) does not include the expense of providing reasonable life, health, accident, and similar insurance protection benefits for a director or committee member. (2) Directors, committee members and employees, while on official business of the credit union, may be reimbursed for reasonable and necessary expenses. Alternatively, the credit union may make direct payment to a third party for such business expenses. Reasonable and necessary expenses may include the payment of travel costs for the foregoing officials and one guest per official. All payment of costs shall be made in accordance with written policies and procedures established by the board of directors. (3) The board of directors may establish compensation for officers of the credit union.
IN	1		28-7-1-16			Ind. Code Ann. 28-7-1-16(f)(4): It is the duty of the directors to do the following: To set the compensation of members of the board, credit committee, or supervisory

						committee.
IO		X	533.205	allows expense reimbursement		Iowa Code 533.205(8): A credit union director shall not receive compensation for service as a director. However, a director may be reimbursed for reasonable expenses directly related to such service.
KS		X	17-2209	allows expenses; insurance not compensation	Allows compensation for loss of salary/wages due to performance of business on behalf of credit union	K.S.A. 17-2209(c): No member of the board of directors or of the credit or supervisory committee shall receive any compensation as a member of the board or committee. The provision of reasonable life, health, accident, disability and similar insurance protection for a director or committee member shall not be considered compensation. Directors and committee members, while on official business of the credit union, may be reimbursed for necessary expenses incidental to the performance of the business. The credit union may compensate any director, committee member or officer for loss of salary or wages due to the performance of business on behalf of the credit union. No salary shall be paid to any officer or other employee of a credit union except such as may have been duly approved by the board of directors.
KY				allows insurance [286.6-545]; nothing about compensation	Law appears silent	
LA		X	6:649	allows expense reimbursement or per diem; insurance not compensation		La. R.S. 6:649(c): No member of the board of directors or of the credit or supervisory committees shall receive any compensation for his services as a member of the board or of the committee. However, directors and committee members may receive expense reimbursement for loss of pay while away from work on credit union business, or per diem when provided for in the bylaws. The commissioner may approve such bylaw provision when the credit union's legal reserves are in excess of six percent of risk assets. The payment by the credit union of premiums for liability, travel, accident, hospitalization, or life insurance coverage on the director or committee member shall not be considered as compensation under this Section.
ME		X	9B MRS 842			9-B MRS 842(3): No member of the board of directors shall receive any compensation for his services as a member of said board, or as a member of any committees of the

						credit union.
MD	1		Fin. Inst. 6-331		Md. Code Ann. 6-101 (k) defines "official" as a director; 6-331 sets out procedure for annual vote on compensation, etc.	
MA		X	ALM CL ch 171 sec20	allows expense reimbursement		ALM GL ch. 171, Sec. 20: No member of the board of directors shall receive compensation for his services as a member of the board or as a member of any committee. A director may be reimbursed for actual expenses incurred in the performance of responsibilities of director or as a member of any committee; provided, however, that such expenses must be itemized in writing and approved by the board of directors. Such expenses shall be reported to the members at the next annual meeting or at a special meeting called for that purpose. The officers elected by the board shall receive such compensation as it may authorize. No member of said board shall borrow from the corporation, by means of a personal loan upon his note, to an amount in excess of the total of his shares and deposits in said credit union, and the accumulated earnings standing to his credit thereon on the books of the corporation or with sufficient collateral pledged to secure the same made up of negotiable bonds or notes of the United States valued at not more than eighty percent of their market value or by the assignment of his passbook in a savings bank, cooperative bank or a federal savings and loan association, all doing business in the commonwealth or policies issued by life insurance companies authorized to transact business in this commonwealth valued at not more than their cash surrender value, unless approved by vote of two-thirds of the other members of said board.
						MCLS 490.341(7): An individual who is elected or appointed to serve as a board member, associate board member, supervisory committee member, or credit committee member of a domestic credit union, or as a member of any other committee that performs significant ongoing functions relating to the ongoing operations of the domestic credit union, shall not receive compensation for his or her service as a board member, associate

MI		X	490.342	allows expenses; insurance not compensation		board member, or committee member, subject to the following: (a) A domestic credit union may provide reasonable life, health, accident, disability, or similar insurance protection, and reimbursement for reasonable expenses that are incidental to the performance of official business of the credit union, to board members, associate board members, supervisory committee members, or credit committee members of the credit union or to the members of any other committee that performs significant ongoing functions relating to the ongoing operations of the domestic credit union. (b) This section does not prevent an employee of a domestic credit union who serves on a credit union committee from receiving compensation for his or her duties as a credit union employee.
MN	1		52.09			Minn. Stat. 52.09(3): The duties of the officers shall be as determined in the bylaws, except that the treasurer may be the general manager. No member of the board, the supervisory committee or an elected credit committee shall receive a salary as such, but may be reimbursed for necessary expenses incurred while serving in such capacity and may be compensated for time actually spent in official duties at an hourly rate as determined by the annual meeting of members. Provision of reasonable health, accident, and similar insurance protection shall not be considered compensation, and is subject to approval by the membership.
MS		X	81-13-29		Allows one elected official of the board of directors to be compensated	Miss. Code Ann. 81-13-29: No member of the credit or supervisory committee shall receive any compensation for his services as a member of said committees; provided, however, that one (1) elected official of the board of directors may be compensated for services rendered.
MO		X	370-210			R.S.Mo. 370.210(1): No member of the board of directors or of the credit or supervisory committees shall receive any compensation for his services as a member of the board or committee.
				necessary expenses;	Allows treasurer to be	Official defined to include board members, 32-3-102(2)(d); MCA 32-3-406: (1) An official of the credit union, other than the treasurer or an employee, may not be compensated for service in that position. (2) For the purposes of this section, the

MT		X	32-3-406	insurance not compensation	compensated	following payments are allowed and are not considered compensation: (a) necessary expenses incidental to the performance of official business of the credit union; or (b) reasonable life, health, accident, and similar insurance protection for an official.
NE		X	21-1761	necessary expenses; insurance not compensation	Allows treasurer to be compensated	R.R.S. Neb. 21-1761: No officer, director, or committee member, jointly or severally, shall receive any compensation, directly or indirectly, for services performed for the credit union as such officer, director, or committee member, except that the treasurer may be compensated for his or her services in the amount, way, and manner provided for by the board of directors. However, providing life, health, accident, and similar insurance protection in reasonable amounts for a director or committee member shall not be considered compensation. Officials, while on credit union business, may be reimbursed for their necessary expenses incidental to the performance of credit union business.
NV	1		678.450	expenses; insurance allowed		Nev. Rev. Stat. Ann. 678.450: 1. A director or committee member may not be compensated for his or her services except that he or she may be provided reasonable life, health, accident and similar insurance protection. 2. Any member of the credit union may be reimbursed for necessary expenses incidental to the performance of credit union business. All such expenses shall be approved by the board. 3. Subsection 1 does not apply to officers of the credit union who also serve as members of the board or a committee.
NH		X	383-E:6- 607		Allows expense reimbursement	RSA 38-E:6-607: (a) No member of the board of directors or of either the credit or supervisory committee shall receive any compensation for his or her services as a member of the board or the committee; provided, however, that if at any time any credit union organized under the provisions of this chapter shall have enlarged its business to such extent that this section may create an impediment to its proper functioning, the commissioner, upon petition of the board of directors, may permit the board of directors to pay the credit committee such compensation as he or she shall consider proper. The reimbursement of reasonable expenses in the execution of the duties of the position

						shall not be considered compensation. (b) The officers elected by the board of directors may receive such compensation as the board shall authorize.
NJ	1		17:13-96			N.J. Stat. 17:13-96: The board of directors or the members, as provided by the bylaws, shall elect a chairman, who shall be a member of the board, a vice chairman, a secretary, and a treasurer, who shall hold their offices at the pleasure of the board or of the members, as the case may be. Officers and members of committees may be compensated for their services as provided for in the bylaws. The commissioner may, at any time, order the compensation reduced if in his judgment it is excessive. The board shall require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character to be determined by the board in compliance with regulations prescribed by the commissioner.
NM		X	58-11-30	necessary expenses; insurance not compensation		N.M. Stat. Ann. 58-11-30: No board or committee member may be compensated for services performed in the regular course of duties pertaining to that board or committee position. Notwithstanding any provision of the Credit Union Act [58-11-1 NMSA 1978] to the contrary, board or committee members may be compensated for those services provided to the credit union while temporarily serving in an additional capacity other than as a board or committee member. Reasonable life, accident and similar insurance protection shall not be considered compensation to a board or committee member. Board and committee members may be reimbursed for reasonable and necessary expenses incidental to the performance of official business of the credit union, provided such expenses are documented.
NY		X	Bank sec 470			NY CLS Bank 470(1): The board of directors of every credit union shall have the general management of the affairs, funds and records of the corporation. No member of the board of directors shall receive any compensation for his services as a member of the board. Whenever the directors shall deem any loan unsafe they may, in their discretion, require additional security to be given by the borrower, and if such security is not furnished as required by them, they may declare the loan due

						and take action to collect the same. Complete minutes of all meetings of directors shall be kept which shall include the names of the directors present.
NC		X	54-109.38	necessary expenses; insurance not compensation		N.C. Gen. Stat. 54-109.38: No member of the board of directors or of the credit committee or supervisory committee shall be compensated for his service in this position, but providing reasonable life, health, accident and similar insurance protection for a director or committee member shall not be considered compensation. Directors and committee members, while on official business of the credit union, may be reimbursed for necessary and reasonable expenses incidental to the performance of the business. Such reimbursement may include the payment of expenses for one guest.
ND	1		6-06-13.1			N.D. Cent. Code 6-06-13.1: A person who serves as a volunteer, including a director, credit committee member, or supervisory committee member, of a federal or state-chartered credit union is immune from civil liability for any act or omission resulting in damage or injury if at the time of the act or omission all of the following are met: 1. The volunteer was acting in good faith and in the scope of that person's official duties as a volunteer of the credit union. 2. The act or omission did not constitute willful misconduct or gross negligence on the part of the volunteer. 3. The volunteer did not receive or expect to receive reimbursement for or payment of expenses in excess of five thousand dollars per year for expenses actually incurred as a result of providing services as a volunteer of the credit union and did not receive or expect to receive compensation or anything in lieu of compensation as payment for services provided as a volunteer of the credit union. This section does not grant immunity to any person causing damage as the result of the negligent operation of a motor vehicle.
OH		X	1733.22	reasonable expenses; allows insurance		ORC Ann. 1733.22: (A) No officer, director, or employee of any credit union shall receive any commission, salary, or other emolument for services arising out of the officer's, director's, or employee's association with the credit union except per diem, wages, or salary which the officer, director, or employee receives, subject to

						rules adopted under section 1733.411 of the Revised Code, as compensation for services to the credit union.
OK		X	6/sec2010			6 Okl. St. 2010(A)(3): A record of names and addresses of the board of directors and the respective committees and officers shall be filed with the Bank Commissioner within ten (10) days after their election. No member of the board of directors shall, as such, be compensated, but the officers elected by the board of directors and the members of the credit and supervisory committees may receive such compensation for services performed as the board shall, by resolution, authorize.
OR	1		723.266	reasonable expenses		ORS 723.266: A credit union may pay to the credit union's directors and supervisory committee members reasonable compensation for service as directors and supervisory committee members and may reimburse directors, supervisory committee members and other committee members while the directors or committee members are on official business for necessary expenses incidental to performing the official business.
PA	1		17PaCS sec709			17 Pa. C.S. 709: Members of the board of directors, the credit committee and the supervisory committee may be compensated if the credit union pays dividends to its members commensurate with prevailing market rates during the preceding year. A credit union shall be deemed to pay dividends commensurate with prevailing market rates if declared dividend rates on share accounts are competitive with dividend or interest rates offered by other credit unions, Federal credit unions or other financial institutions authorized to engage in the business of receiving money for deposit. The department may prohibit or regulate the payment of compensation of directors, committee members and officers, exclusive of the treasurer, if it deems such compensation excessive or if, in its opinion, the financial condition of the credit union is not such as to warrant the payment of such compensation.
						R.I. Gen. Laws 19-5-17(b): Any credit union may pay to each of the members of the board of directors, credit committee, and supervisory committee for his or her services as a member of the board or

RI	1		19-5-17			committee(s) a sum that may from time to time be fixed by the members at an annual meeting. No officers, directors or employees may receive any other compensation or fee for services provided to the credit union beyond their compensation as officers, directors, and/or employees.
SC		X	34-26-620	reasonable expenses; allows insurance		S.C. Code Ann. 34-26-620: No officer, director, or committee member, other than an employee, may be compensated for services. However, providing reasonable accident insurance protection while on credit union business shall not be considered compensation. Directors, officers, and committee members may be reimbursed for expenses incidental to the performance of official business of the credit union.
SD					Law appears silent	
TN	1		45-4-205			Tenn. Code Ann 45-4-205: (a) No member of the credit or supervisory committee shall receive any compensation for services as a member of the committee. (b) As an alternative to the reimbursement for members of the board of directors in subsection (c), each member of the board of directors may be compensated subject to the following conditions: (1) The board shall adopt a resolution stating that the credit union requires expertise among board members for the prudent general management of the affairs, funds and records of the credit union; (2) Such compensation shall be payable to board members elected after the adoption of the resolution in subdivision (b)(1); (3) The credit union shall adopt a policy governing the participation and attendance that a board member shall comply with in order to receive compensation; and (4) The annual report of the credit union's income and expenses shall include board member compensation as a specific expense item. (c) Notwithstanding subsection (a), the board of directors may provide that the credit union shall reimburse any member of the board of directors or the credit or supervisory committee for any loss of earnings caused by time spent in the service of the credit union, in an amount that the board of directors may determine, not to exceed the amount of the lost earnings.

TX		X	122.062	reasonable expenses; allows insurance	In addition to reasonable expenses, the Texas Commission Rules also permit payment of a reasonable meeting fee: Tex. Admin. Code 91.502 (b). This rule requires particular disclosures of the membership fees to the members, and in certain circumstances, the fees are not allowed (if the credit union is operating under a Net Worth Restoration Plan or order issued under Fin. Code 122.257 or 122.258)	Tex. Fin. Code 122.062: A person may not receive compensation for serving as a director, honorary director, advisory director, or committee member of a credit union, except that the person may be: (1) provided with reasonable health, life, accident, liability, or similar insurance protection; (2) reimbursed for necessary expenses incurred in the performance of the person's duties; and (3) paid the fees and reimbursed for other expenditures authorized by commission rules.
UT		X	7-9-24	reasonable expenses		Utah Code Ann 7-9-24: (1) A member of the board of directors, credit committee, or supervisory committee may not receive any compensation for services as such, except that the reimbursement of reasonable expenses incurred in the execution of the duties of the position may not be considered compensation. (2) Any member of a credit union who incurs any expenses or performs any service authorized by the board of directors may be compensated or reimbursed for the expenses or services in an amount approved by the board of directors. (3) The board of directors shall determine the compensation for a president appointed as general manager.
VT		X	8 VSA 31314	necessary expenses; insurance not compensation		8 V.S.A. 31314(a): (a) No officer of the governing body, no director, nor any committee member, other than the treasurer, may be compensated for services as such. However, providing reasonable health, accident, and similar insurance protection shall not be considered compensation.
VA		X	6.2-1352	necessary expenses;		Correct, Va Code 6.2-1352: No member of the board of directors shall receive any compensation for his services as a member of the board. The members of the credit or supervisory committee may receive for their services, as members, such compensation as the board of directors may determine. Health, accident, and term life insurance protection for a director or committee member shall not be considered

				insurance not compensation		compensation. Directors and committee members, while on official business of the credit union, may be reimbursed for necessary expenses incidental to performing the business of the credit union. Official business of the credit union shall include attendance at regular or special meetings of the board of directors or committees thereof.
WA	1		31.12.365	reasonable expenses		Rev. Code Wash. 31.12.365: (1) A credit union may pay to its directors and supervisory committee members reasonable compensation for their service as directors and supervisory committee members. Irrespective of whether it pays compensation to its directors or supervisory committee members, a credit union may provide to its directors and supervisory committee members: (a) Gifts of minimal value; (b) Insurance coverage or incidental services, available to employees generally; and (c) Reimbursement for reasonable expenses incurred on behalf of themselves and their spouses in the performance of the directors' and supervisory committee members' duties. (2) The director may adopt rules to interpret this section.
WV		X	31C-5-4	necessary expenses; insurance not compensation		W. Va. Code Ann. 31C-5-4(a): (a) No officer, director or committee member, other than an employee, may be compensated for services, except as provided in section one [§ 31C-5-1], article five of this chapter. However, providing reasonable life, health, accident and similar insurance protection shall not be considered compensation. Directors, officers and committee members may be reimbursed for necessary expenses incidental to the performance of official business of the credit union.
WI	1		186.12			Wis. Stat. 186.12: (1) Board members. No member of the board of directors may receive any compensation for services as a member of the board other than reasonable health, accident and similar insurance.
WY					Law appears silent	

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